

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

COUNTY OF SAN MATEO,

No. C-08-4751 MMC

Plaintiff,

**ORDER DENYING PLAINTIFF'S MOTION
FOR REMAND**

v.

BANK OF AMERICA, N.A., et al.,

Defendants

Before the Court is plaintiff County of San Mateo's ("San Mateo") "Motion for Remand to State Court," filed October 27, 2008. Defendants AIG Financial Products Corp. and AIG SunAmerica Life Assurance Company (collectively, "AIG"), have filed opposition, in which defendants Bank of America, N.A., and Banc of America Securities LLC (collectively, "Bank of America") have joined. After San Mateo filed a reply, AIG, with leave of court, filed a sur-reply, to which San Mateo, with leave of court, filed a supplemental reply. The matter came on regularly for hearing December 19, 2008. Stuart Gross and Nanci E. Nishimura of Cotchett, Pitre & McCarthy appeared on behalf of San Mateo. Reginald D. Steer of Akin Gump Strauss Hauer & Feld LLP appeared on behalf of AIG. Brenda N. Buonaiuto of King & Spaulding LLP appeared on behalf of Bank of America.

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1 Having considered the parties' written submissions, as well as the arguments of
2 counsel, the Court, for the reasons stated on the record, hereby DENIES the motion. In
3 particular, the Court finds that, absent an amended pleading that either expressly or by
4 reasonable inference disavows or is inconsistent with the prior pleading, an admission of
5 fact in the prior pleading—in this instance, the participation of foreign banks in the alleged
6 conspiracy—constitutes part of plaintiff's claim for purposes of determining application of
7 the Edge Act.

8 **IT IS SO ORDERED.**

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10 Dated: December 22, 2008


MAXINE M. CHESNEY
United States District Judge